

**IN THE UNITED STATES BANKRUPTCY COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

IN RE:	)	
CLEVELAND D. BOLER	)	CHAPTER 13
EVELYN BOLER	)	
Debtor	)	
	)	CASE NO. 06-30049
	)	06-30072
IN RE:	)	
RICKY BROWN SR.	)	
VICKI BROWN	)	

**BRIEF IN OPPOSITION TO  
OBJECTION TO CONFIRMATION**

COMES NOW the Debtor, by and through attorney, and files this response to the Trustee's Objection to Confirmation:

## JURISDICTION

This Court has jurisdiction over this matter under 28 U.S.C. § 1334 and by general order of the United States District Court for this district. This is a core proceeding under 28 U.S.C. § 157(b)(2)(L) as it involves the confirmation of a Chapter 13 plan of repayment.

## BOLER FACTS

Cleveland and Evelyn Boler filed Chapter 13 on January 18<sup>th</sup>, 2006 following enactment of the Bankruptcy Abuse and Consumer Protection Act of 2005 (“the 2005 Act”). At the time of filing, Mr. Boler owed Baldwin County Department of Human Resources for child support arrears pursuant to a Baldwin County Domestic support order and subsequent

Rule Nisi Petition (Exhibit A) which, under the new provisions of the 2005 Act, qualifies as a domestic support obligation. Prior to filing, Mr. Boler had been paying the child support arrears by an income/wage withholding order. The Bolers filed a Chapter 13 plan providing for payment in full of the child support arrears through the Chapter 13 plan following payment of administrative and secured claims. The State of Alabama Department of Human Resources (DHR) subsequently filed a priority claim in the amount of \$9,110.41. See attached Exhibit B. In addition, DHR filed an objection to confirmation of the Chapter 13 plan stating that 11 U.S.C. §507(a)(1)(a) required domestic support obligations to be paid before all other claims including administrative and secured claims. The Bolers filed an amended plan offering to pay the child support arrears direct in an effort to resolve the pending DHR objection. The Debtors' intentions were to resume the DHR wage withholding order which was in place at the time of the filing of the bankruptcy. DHR objected again on the same grounds.

### **BROWN FACTS**

Ricky and Vickie Brown filed Chapter 13 on January 25<sup>th</sup>, 2006 following enactment of the Bankruptcy Abuse and Consumer Protection Act of 2005 ("the 2005 Act"). The Browns listed Dallas County Child Support as a creditor for child support arrears owed by Mr. Brown. Mr. Brown was paying his child support by an income withholding order prior to the filing of the Chapter 13 plan. The Browns filed a Chapter 13 plan providing for payment in full of the child support arrears through the Chapter 13 plan following payment

of administrative and secured claims. DHR filed a priority proof of claim in the amount of \$4,637.45 (see attached Exhibit C) and also filed an objection to confirmation of the Chapter 13 plan stating that 11 U.S.C. §507(a)(1)(a) required domestic support obligations to be paid before all other claims including administrative and secured claims.

## **APPLICABLE LAW**

### **1. Confirmation**

If a Chapter 13 plan is to be confirmed, the plan must first contain those mandatory provisions set out in 11 U.S.C. §1322(a) and then satisfy those requirements found under 11 U.S.C. §1325. Furthermore, 11 U.S.C. §1326 directs how and when payments are to be made by the debtor to the Chapter 13 Trustee and how the trustee must pay out those payments.

Prior to the 2005 Act, in order to be confirmed, a Chapter 13 plan had to contain the following:

#### **§ 1322. Contents of plan**

(a) The plan shall—

- (1) provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan
- (2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507 of this title, unless the holder of a particular claim agrees to a different treatment of such claim; and
- (3) if the plan classifies claims, provide the same treatment for each claim within a particular class.

The 2005 Act added the following section to address domestic support obligations:

*(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5 year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.*

The provisions in §1322(a) are mandatory as opposed to those in §1322(b) which are more permissive in nature. The mandatory provisions have been kept to a minimum in order to facilitate flexible repayment plans for the debtor and to further the congressional goal of encouraging Chapter 13 repayment plans. 8-1322 Collier on Bankruptcy-15th Edition Rev. P 1322.01.

Section 1325 lists all requirements which must be met in order for a Chapter 13 plan to be confirmed. Confirmation is not discretionary once these criteria have been met, nor can the Court add requirements which are otherwise unstated if the plan otherwise meets all the §1326 requirements and there are no objections by creditors. In re Estus, 695 F.2d 311, 7 C.B.C.2d 948 (8th Cir. 1982) ; In re Alexander, 670 F.2d 885, 6 C.B.C.2d 771 (9th Cir. 1982) ; Petro v. Mishler, 276 F.3d 375 (7th Cir. 2002) (court could not invoke 11 U.S.C. § 105 to add requirement that debtors present periodic income statements to trustee).

## **2. Priority Claims**

Section 507 sets out ten categories of claims that will be entitled to priority status. Among the recent changes in the bankruptcy code and most important to DHR's position, was an amendment to §507(a)(1) which moved domestic support obligations up to first

priority from seventh priority. All domestic support obligations are now “first” priority with the highest priority given to those domestic support obligations owed to a spouse, former spouse, child of the debtor, or child’s parent, legal guardian or responsible relative. Those domestic support obligations which are assigned to a governmental unit (other than for purposes of collection) or owed directly to a governmental unit are second among the first priority debts.

Although §507 is applicable in its entirety in chapter 7, chapter 11, chapter 12 and chapter 13 cases, the application will vary depending upon which chapter of the Code a case was filed under. Distribution of assets in a Chapter 7 proceeding is governed by §726(a)(1). This section states in part that “property of the estate shall be distributed—“(1) first, in payment of claims of the kind specified in, and in the order specified in, section 507 of this title...”. Despite the fact that §726(a)(1) specifically states that §507 claims should be paid first, there is no requirement in Chapter 7 that the claims be paid in full. 4-507 Collier on Bankruptcy-15th Edition Rev. P 507.02[2][5].

In Chapter 13 cases, a debtor’s only requirement is to pay all priority claims in full pursuant to §1322((a)(2).

### **APPLICATION OF LAW**

DHR has filed an objection to the confirmation of the debtor’s case stating that they filed a priority claim under §507(a)(1)(a) and that pursuant to §507(a)(1)(a), the plan is not a confirmable plan unless it proposes to pay this claim before administrative claims and

secured claims.

The Debtor states that the payment scheme set out in §507(a)(1)(a) is only applicable to cases filed under Chapter 7 with assets to be distributed according to its companion section §726. Section 726(a)(1) provides that property of the estate is first distributed in payment of timely filed claims of a kind specified in, and in the order specified in, section 507.

Since the implementation of the 2005 Act, there has been no case law interpreting the effect of the amended §507(a)(1). There is, however, sufficient case law to support the debtors' contention that there is no requirement in either §1322, §1325 or §1326 which states that any priority claims, except for fees and administrative expenses be paid in the order prescribed by §507. In In Re Ferguson 134 B.R. 689, (Bankr. S.D. Fla. 1991), the court held that unsecured priority tax claims could be paid in full during the life of a Chapter 13 plan in deferred cash payments although the deferred cash payments did not have to start at the inception of the plan. Furthermore, as long as full payment of the priority claims is provided for in the plan, nothing in §1322 requires that higher priority claims must be paid fully before paying lower priority claims. In re Aldridge, 335 B.R. 889; (Bankr. S.D. Ala. 2005 ); In re Cason, 190 B.R. at 933 (pre-2005 Act case which held that there is no provision of §507(a)(1) which requires full payment of priority claims before payments can begin to other claimholders.)

Although it is clear that Congressional intent was to place higher importance on the payment of domestic support obligations in Chapter 7 asset cases, that was not the case with cases filed under Chapter 13. In fact, the only amendment to §1322 was one which placed

even less importance on domestic support arrears. With the addition of §1322(a)(4) now a Chapter 13 debtor can pay less than full payment of domestic support obligations as long as the debtor commits all his disposable income for a five year period, a result which clearly does not reinforce the position that §507(a) is applicable in the Chapter 13 arena. It is clear that if Congress had intended to force §1322 and §1326 into a §507/ §726 model it would have done so by specifically amending §1322 and/or §1326 to include provisions specifically requiring claims in Chapter 13 to be paid according to the §507 payment scheme. It did not do so.

#### **In Re Boler 06-30049**

The Boler have met all the legal requirements for confirmation of their Chapter 13 plan which are found in §1322(a).

First, they have proposed to pay all future earnings to the trustee for benefit of the Chapter 13 plan as required by §1322(a)(1). Next, they have proposed to pay the priority claim of DHR in full by continuing the income withholding order in place at the time of the Chapter 13 plan thus meeting the requirement of §1322(a)(2).<sup>1</sup> Next they have agreed to pay all classes of creditors in the same manner as required by §1322(a)(3). Finally, the Boler's plan does not attempt to pay less than the full amount of any domestic support obligation claims (there is only one priority domestic support obligation and that is the claim of DHR)

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<sup>1</sup> It should be noted that originally the plan called for the full payment of the priority DHR claim through the Chapter 13 plan, however, the plan was amended to pay the claim direct in an effort to resolve the pending DHR objection to confirmation.

and therefore, by filing a 36 month Chapter 13 plan, they are complying with §1322(a)(4).

In addition, the debtors have met all requirements of §1325(a) in that the plan complies with all other applicable provisions of Chapter 13 not just those in §1322, all filing fees have been paid, the best interests test has been met, allowed secured creditors have accepted the plan<sup>2</sup> and the plan has been proposed in good faith. In fact, the debtor, by requesting to reinstate the income withholding order from DHR, is proposing to pay the DHR claim *before* even any administrative costs that would have to be paid pursuant to §1326(b)(1), therefore it could hardly be stated that the plan wasn't proposed in good faith. In this particular case, there would be no way for DHR to be paid sooner even if they prevail on their objection. If they prevail on their objection, the claim would be paid after administrative costs, an effect counterintuitive to DHR's position.

### **In Re Brown**

The Browns have also met all the legal requirements for confirmation of their Chapter 13 plan which are found in §1322(a).

Like the Bolers, they have proposed to pay all future earnings to the trustee for benefit of the Chapter 13 plan as required by §1322(a)(1). Next, they have proposed to pay the priority claim of DHR in full, however, in this case the debtors propose to pay the entire priority claim of DHR through the Chapter 13 Trustee thus meeting the requirement of

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<sup>2</sup> An objection to confirmation has been filed by Guardian Credit Union, however, the parties have agreed to a settlement and an amended plan will be filed memorializing the agreement.



§1322(a)(2). Next they have agreed to pay all classes of creditors in the same manner as required by §1322(a)(3). Finally, the Browns' plan does not attempt to pay less than the full amount of any domestic support obligation claims (there is only one priority domestic support obligation and that is the claim of DHR) and therefore, by filing a 48 month Chapter 13 plan, they are complying with §1322(a)(4).

In addition, the debtors have met all requirements of §1325(a) in that the plan complies with all other applicable provisions of Chapter 13 not just those in §1322, all filing fees have been paid, the best interests test has been met and the plan has been proposed in good faith.<sup>3</sup>

In both cases, the debtors have complied with §1322 and §1325's requirements for confirmation. There is no new requirement under §1322 nor §1325 to pay priority domestic support obligations before all other claims, therefore, the objection of DHR has no merit.

Wherefore, premises considered, the debtor requests the Court to overrule the Alabama Department of Human Resources Objection to Confirmation

Respectfully submitted this day: April 12, 2006.

/s/ Vonda S. McLeod  
[vmcleod@samvpc.com](mailto:vmcleod@samvpc.com)  
RICHARD D. SHINBAUM (SHI007)  
VONDA S. MCLEOD (MCL032)

Of Counsel:

There are two pending objections to the confirmation of this plan, neither of which is based upon bad faith. The Trustee objected because the debtor has not provided to them the name, address and phone number of the domestic support obligee. That information has since been provided to the Trustee. Greentree has objected based upon the value of the debtor's mobile home. This objection has yet to be resolved.

Shinbaum, Abell, McLeod & Vann, P.C.  
Post Office Box 201  
Montgomery, AL 36101  
(334) 269-4440

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above on all parties listed below by CMECF or by mailing a copy of same to them on this day: April 12, 2006.

Curtis C. Reding  
Chapter 13 Trustee  
Post Office Box 173  
Montgomery, AL 36101

Richard G. Moxley, III  
Attorney for Creditor Alabama DHR  
556 South Perry  
Montgomery, AL 36104

/s/ Vonda S. McLeod

State of Alabama  
Unified Judicial System  
C-34 Rev. 2/79

ALIAS SUMMONS-CIVIL

COPY

02DR01000545.04

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

PLAINTIFF ANGELA J. BOLER vs DEFENDANT CLEVELAND D. BOLER, III

NOTICE TO CLEVELAND D BOLER,III, (AUTAUGA COUNTY) 2242 HIGHWAY 31 N, DEATSVILLE, AL 36022

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO MAIL OR HAND DELIVER A COPY OF A WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT TO THE PLAINTIFF'S ATTORNEY, JOHN B. GAMBLE (GAM022), WHOSE ADDRESS IS CHILD SUPPORT DIVISION, 101 COURTHOUSE SQUARE, BAY MINETTE, AL 36507.

THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. YOU MUST ALSO FILE THE ORIGINAL OF YOUR ANSWER WITH THE CLERK OF THIS COURT.

☒ TO ANY SHERIFF OR ANY PERSON AUTHORIZED by either Rules 4.1(b)(2) or 4.2(b)(2) or 4.4(b)(2) of the Alabama Rules of Civil Procedure: You are hereby commanded to serve this summons and a copy of the complaint in this action upon CLEVELAND D. BOLER, III

☐ This service by certified mail of this summons is initiated upon the written request of ANGELA J. BOLER pursuant to rule 4.1(c) of the Alabama Rules of Civil Procedure.

Clerk/Register

By: JP

Circuit Clerk  
312 Courthouse Square, Suite 10  
Bay Minette, AL 36507

Date 12/19/06

## RETURN ON SERVICE:

☐ Certified Mail return receipt received in this office on (Date) \_\_\_\_\_ (Return receipt hereto attached).

☐ I certify that I personally delivered a copy of the Summons and Complaint to \_\_\_\_\_ in \_\_\_\_\_ County, Alabama on (Date) \_\_\_\_\_.

Date \_\_\_\_\_

Server Signature \_\_\_\_\_

Address of  
Server \_\_\_\_\_

Type of Process Server \_\_\_\_\_

IN THE DISTRICT/CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

STATE OF ALABAMA EX REL.  
INTERVENOR

\*

CASE NO. DR 2001-545.04

\*

ANGELA J. BOXER

PLAINTIFF

\*

\*

VS

CLEVELAND D. BOLER, III

DEFENDANT

\*

\*

DHR NO. 0493221

CIRCUIT COURT  
BALDWIN COUNTY, AL  
FILED

OCT 19 2005

JODY W. CAMPBELL  
CLERK

**ORDER ON MOTION FOR RULE NISI  
CITATION FOR CONTEMPT**

YOU ARE ORDERED TO APPEAR BEFORE THE ABOVE-NAMED COURT TO SHOW CAUSE WHY YOU SHOULD NOT BE FOUND IN CONTEMPT OF COURT FOR FAILURE TO PAY CHILD SUPPORT AS PREVIOUSLY ORDERED AND/OR FAILURE TO COMPLY WITH OTHER PROVISIONS OF THE COURT'S PRIOR ORDERS.

THE TIME AND PLACE FOR THE ABOVE CONTEMPT HEARING SHALL BE ON THE 23rd DAY OF January, 2006, AT 1:00 P.M. AM/PM, BALDWIN COUNTY COURTHOUSE, COURTROOM #6, BAY MINETTE, ALABAMA. **THE STATE OF ALABAMA WILL REPRESENT CHILD SUPPORT MATTERS ONLY.**

THE DEFENDANT'S FAILURE TO APPEAR SHALL RESULT IN THE ISSUANCE OF AN ARREST WARRANT AND HIS/HER BEING INCARCERATED IN THE BALDWIN COUNTY JAIL UNTIL SUCH TIME AS HE/SHE SHALL PURGE HIM/HERSELF OF CONTEMPT.

DONE this the 19th day of October, 2005.

Carmen E. Bosch  
CARMEN E. BOSCH, DISTRICT JUDGE

TO ANY LAW ENFORCEMENT OFFICER OF THE STATE OF ALABAMA: YOU ARE ORDERED TO PERSONALLY SERVE THIS CITATION ON THE DEFENDANT.

**RETURN OF SERVICE**

I certify that I personally delivered a copy to \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_.

State of Alabama  
Unified Judicial System  
CS-6 Rev. 4/95

# RULE NISI PETITION

02DR01000545.05

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

STATE OF ALABAMA, ex rel.

Plaintiff ANGELA J. BOLER

vs. Defendant CLEVELAND D. BOLER, III

Address 1515 PENSACOLA DRIVE

Address 2242 HIGHWAY 31 N

LILLIAN, AL 36549

DEATSVILLE, AL 36022

Comes now the State of Alabama, ex rel. Angela J. Boler and shows unto the Court as follows:

1. On the 19th day of June, 2003, the defendant, Cleveland D. Boler, III, was ordered to pay support in the amount of \$375.00 per month current continuing support plus \$125.00 per month on arrears, commencing on May 1, 2003 for the minor child(ren), named as follows:
 

Chase A. Boler	10-27-99
Mikayla A. Boler	03-14-01
2. Defendant is \$ 6,001.23 in arrears as of the 18th day of October, 2005 in child support payments as Ordered by the Circuit Court of Baldwin County.
3. On the 19th day of June, 2003 the defendant was ordered to pay support in the amount of \$ \_\_\_\_\_ per commencing on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ for the spouse/former spouse, Angela J. Boler.
4. Defendant is \$ \_\_\_\_\_ in arrears as of the 18th day of October, 2005 in spousal support payments as Ordered by the Circuit Court of Baldwin County.
5. On the 19th day of June, 2003, the defendant was ordered by this court to provide medical support and/or reimbursement as follows: \_\_\_\_\_.
6. Unpaid medical support in the amount of \$ \_\_\_\_\_ has accumulated and is due since the above-mentioned order.

Interest has accumulated on the above-referenced arrearages in the amount of \$ 2,067.95.

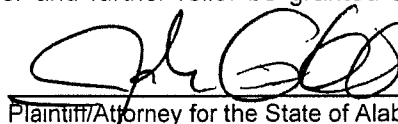
7. \_\_\_\_\_

**WHEREFORE**, the premises considered, the plaintiff moves this Honorable Court as follows: (1) That a hearing be set and notice of the date, time and place of said hearing be served on the defendant, and that at said hearing defendant be required to show cause why he/she should not be held in contempt of court; (2) that the Court reduce the arrearages to a judgment with interest and order payments thereon; (3) that at said hearing the Court also enter an income withholding order; (4) that such other and further relief be granted as to which Plaintiff may be entitled and which the court may deem just.

October 18, 2005

Date

Name & Address of Attorney  
JOHN B. GAMBLE (GAM022)  
CHILD SUPPORT DIVISION  
101 COURTHOUSE SQUARE  
BAY MINETTE, AL 36507

  
Plaintiff/Attorney for the State of Alabama

(251) 937-0253  
Telephone Number of Attorney

CIRCUIT COURT  
BALDWIN COUNTY, AL  
FILED

OCT 19 2005

JODY W. CAMPBELL  
CLERK

10/13/05

**STATE OF ALABAMA  
CHILD SUPPORT ENFORCEMENT DIVISION  
COURT ORDER PAYMENT SUMMARY**

NAME: ANGELA J. BOLER  
ID: P0001471390

NCP NAME: CLEVELAND D. BOLER, III  
NCP ID: P0001534778

COURT ORDER NUMBER: 02DR01000545  
DHR FILE NUMBER: 02-30625  
CASE ID: 0493221

**SUPPORT TYPES AND TERMS**

CHILD SUPPORT  
RETROACTIVE CHILD SUPPORT  
MEDICAL SUPPORT  
MEDICAL REIMBURSEMENT  
FOUSAL SUPPORT  
ES

EFFECTIVE DATE: May 1, 2003

ANCES BY ACCOUNT TYPE:

CP INT 2,067.95

CS NA AR 6,001.23

CURRENT		ARREARS		BALANCES		INTEREST	
	PER MONTH		PER MONTH				
	\$375.00		\$125.00		\$6,376.23		STATE
PER			PER				CP
			PER				\$2,067.95
PER			PER				MEDICAID
			PER				
			PER				

**TOTAL AMOUNT DUE FOR THIS COURT ORDER: \$8,444.18**

DATE	TOTAL	ORDER	PAY CODE	ACCOUNT AMOUNT	POSTED TYPE	ACCOUNT AMOUNT	POSTED TYPE	ACCOUNT AMOUNT	POSTED TYPE
7/7/28/2005	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		
11/13/2005	250.00	250.00	IW	250.00	CS NA CU				
5/29/2005	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		
6/15/2005	250.00	250.00	IW	250.00	CS NA CU				
5/28/2005	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		
5/12/2005	250.00	250.00	IW	250.00	CS NA CU				
4/28/2005	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		
4/13/2005	250.00	250.00	IW	250.00	CS NA CU				
3/30/2005	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		
3/14/2005	250.00	250.00	IW	250.00	CS NA CU				
2/28/2005	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		
2/12/2005	250.00	250.00	IW	250.00	CS NA CU				
1/11/2005	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		
1/13/2005	250.00	250.00	IW	250.00	CS NA CU				
2/27/2004	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		
2/16/2004	250.00	250.00	IW	250.00	CS NA CU				
1/27/2004	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		
1/12/2004	250.00	250.00	IW	250.00	CS NA CU				
10/27/2004	250.00	250.00	IW	100.00	CS NA CU	150.00	CS NA AR		

CIRCUIT COURT  
BALDWIN COUNTY, AL  
FILED  
OCT 19 2005  
JODY W. CAMPBELL  
CIRCUIT CLERK

Application Fee  
Federal Joint Fee  
Gift  
Other State Income Withholding  
State Joint  
BC - Bankruptcy Court  
FJ - Federal Joint Tax Offset  
IF - IRS Full Collection  
OT - Other State, State Offset Single  
SS - State Single  
BN - Bond  
FM - Financial Management  
IW - Income/Wage Withholding  
RP - Regular Pay  
TF - Trust Fund  
CC - Court Cost Fee  
FS - Federal Single  
LI - Lien  
SA - State Adjustment  
UC - Unemployment Compensation  
FA - Federal Adjustment  
GA - Garnishments  
MA - Military Allotment  
SE - State Single Fee  
FE - Federal Single Fee  
GF - Genetic Fee  
OJ - Other State, State Offset Joint  
SF - State Joint Fee

State of Alabama	<b>MOTION TO INTERVENE NOTICE OF APPEARANCE ORDER TO REDIRECT PAYMENTS TRANSFER CASE TO REFEREE</b>	DR-2001-545.05
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IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

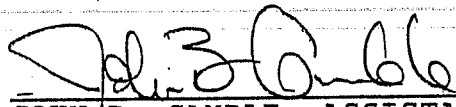
STATE OF ALABAMA, ex rel.

Plaintiff ANGELA J. BOXERvs. Defendant CLEVELAND D. BOLER, III

Comes now the State of Alabama and moves this Honorable Court to Order the defendant in this cause to make all child support payments payable to ALABAMA CHILD SUPPORT PAYMENT CENTER, P. O. Box 244015, Montgomery, AL 36124-4015, for transmittal to the State Department of Human Resources and to the plaintiff where applicable, and would show as grounds the following:

1. The plaintiff in this cause has assigned all support rights to the State of Alabama, Department of Human Resources, under Title IV-D of the Social Security Act, as amended.
2. Section 38-10-8, Code of Alabama 1975, requires all support payments made in Title IV-D cases with such assignment of rights be made to the State Department of Human Resources, Montgomery, Alabama.
3. The Child Support Referee has the authority to hear cases that pertain to child support matters only.


**WHEREFORE**, the premises considered, the State of Alabama moves this Honorable Court to allow the State of Alabama to Intervene and Order child support payments payable to the agency designated above, and transfer the case to the Child Support Referee.

  
JOHN B. GAMBLE, ASSISTANT DA

### ORDER ALLOWING INTERVENTION, CHANGE RECIPIENT OF PAYMENTS AND TRANSFER CASE TO THE CHILD SUPPORT REFEREE

The foregoing Motion being duly considered, it is hereby ☒ Granted ☐ Denied. The current child support payments shall be paid to ALABAMA CHILD SUPPORT PAYMENT CENTER, P. O. Box 244015, Montgomery, AL 36124-4015. The Clerk of Court shall furnish copies to the Defendant and to the Child Support Division of the District Attorney's Office. The case is transferred to the Child Support Referee to hear child support matters only.

DONE this the 19<sup>th</sup> day of October, 2005.

  
CARMEN E. BOSCH, DISTRICT JUDGE  
JUDY W. CAMPBELL  
CIRCUIT CLERK

CIRCUIT COURT  
BALDWIN COUNTY, AL  
FILED  
OCT 19 2005



State of Alabama  
Unified Judicial System

Form CS-47 Rev. 7/98

Appendix to Rule 32.1  
**CHILD SUPPORT INFORMATION SHEET**

Case Number

02DR01000545, 04

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ANGELA J. BOLER  
Plaintiffv. CLEVELAND D. BOLER, III  
Defendant

## INFORMATION CONCERNING THE PARTIES:

☐ Not Applicable. No minor child(ren) a party to or subject to this action.PLAINTIFF (MOTHER, FATHER, OTHER ( ) OR  
OTHER PARTY (SPECIFY) ( )DEFENDANT (MOTHER, FATHER, OTHER ( ) OR  
OTHER PARTY (SPECIFY) ( )

## ADDRESS (INCLUDING CITY, STATE, AND ZIP CODE):

1515 PENSACOLA DRIVE

LILLIAN, AL 36549

## ADDRESS (INCLUDING CITY, STATE, AND ZIP CODE):

2242 HIGHWAY 31 N

DEATSVILLE, AL 36022

TELEPHONE NO: HOME: 251 961-1021

TELEPHONE NO: HOME:

SSN: 390-66-8350

DOB: 03/09/1971

SSN: 427-41-3767

DOB: 02/11/1975

RACE: WH

SEX: FEMALE

RACE: WH

SEX: MALE

PLACE OF EMPLOYMENT AND ADDRESS (INCLUDING CITY, STATE,  
AND ZIPCODE) (IF APPLICABLE):  
UNKNOWNPLACE OF EMPLOYMENT AND ADDRESS (INCLUDING CITY,  
STATE, AND ZIPCODE) (IF APPLICABLE):  
UNKNOWN

WORK TELEPHONE NO:

WORK TELEPHONE NO:

## INFORMATION CONCERNING THE CHILD(REN):

NAME(S)

ADDRESS(ES)

DATE(S) OF BIRTH

SEX

SSN

CHASE A. BOLER

SAME AS CP'S ADDRESS

10/27/1999

MALE

416-51-7651

MIKAYLA A. BOLER

SAME AS CP'S ADDRESS

03/14/2001

FEMALE

417-53-3538

CIRCUIT COURT  
BALDWIN COUNTY, AL

OCT 19 2005

THE CHILD SUPPORT REFORM ACT OF 1997 CODIFIED AT § 30-3-190, ET SEQ, ALA CODE 1975 REQUIRES THAT THE COURT MAINTAIN THE ABOVE INFORMATION IN THE RECORD FOR ALL PARTIES IN DOMESTIC RELATIONS, SUPPORT, OR PATERNITY ACTIONS. THIS INCLUDES GRANDPARENTS OR OTHERS WHO MAY EITHER INITIATE AN ACTION OR INTERVENE IN AN EXISTING ACTION.

Completed By: BRENDA D. LYBARGER  
(Print Name)

Date Completed: October 13, 2005

Daytime Phone No: (251) 580-2884



Name of Debtor  
<#85 DL c70>  
<#101 JL c70>Case Number  
<#3 cn c11>**NOTE:** This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. §503.Name of Creditor (The person or other entity to whom the debtor owes money or property):  
RecipAddr1 replacement☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

&lt;#3 cn c11&gt;

Name and Address where notices should be sent:

RecipAddr1 replacement  
RecipAddr2 replacement  
RecipAddr3 replacement  
RecipAddr4 replacement  
RecipAddr5 replacement  
RecipAddr6 replacement☐ Check box if you have never received any notices from the bankruptcy court in this case.  
☐ Check box if the address differs from the address on the envelope sent to you by the court.

123456

Telephone Number:

THIS SPACE IS FOR COURT USE ONLY

Last four digits of account or other number by which creditor identifies debtor:

Check here if ☐ replaces  
this claim ☐ amends a previously filed claim, dated: \_\_\_\_\_**1. Basis for Claim**

- ☐
- Goods sold
- 
- ☐
- Services performed
- 
- ☐
- Money loaned
- 
- ☐
- Personal injury/wrongful death
- 
- ☐
- Taxes
- 
- ☐
- Other \_\_\_\_\_

- ☐
- Retiree benefits as defined in 11 U.S.C. §1114(a)
- 
- ☐
- Wages, salaries, and compensation (fill out below)
- 
- Last four digits of SS your #: \_\_\_\_\_
- 
- Unpaid compensation for services performed
- 
- from \_\_\_\_\_ to \_\_\_\_\_
- 
- (date) (date)

**2. Date debt was incurred:****3. If court judgment, date obtained:****4. Classification of Claim.** Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations.**Unsecured Nonpriority Claim** \$ \_\_\_\_\_

- ☐
- Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.

**Unsecured Priority Claim**

- ☐
- Check this box if you have an unsecured priority claim, all or part of which is entitled to priority

Amount entitled to priority \$ \_\_\_\_\_

Specify the priority of the claim:

- ☐
- Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).
- 
- ☐
- Wages, salaries, or commissions (up to \$10,000),\* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).
- 
- ☐
- Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5).

**Secured Claim**

- ☐
- Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

☐ Real Estate ☐ Motor Vehicle ☐ Other \_\_\_\_\_

Value of Collateral: \$ \_\_\_\_\_

Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ \_\_\_\_\_

- ☐
- Up to \$ 2,225\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).

- ☐
- Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).

- ☐
- Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(\_\_\_\_).

\*Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

**5. Total Amount of Claim at Time Case Filed:** \$ \_\_\_\_\_  
(unsecured) (secured) (priority) (Total)

- ☐
- Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

**6. Credits:** The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.**7. Supporting Documents:** Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.**8. Date-Stamped Copy:** To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

THIS SPACE IS FOR COURT USE ONLY

Date

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

**STATE OF ALABAMA**  
**CHILD SUPPORT ENFORCEMENT DIVISION**  
**COURT ORDER PAYMENT SUMMARY**

02/24/06

CP NAME: ANGELA J. BOLER  
 CP ID: P0001471390

NCP NAME: CLEVELAND D. BOLER, III  
 NCP ID: P0001534778

COURT ORDER NUMBER: 02DR01000545  
 DHR FILE NUMBER: 02-30625  
 CASE ID: 0493221

**SUPPORT TYPES AND TERMS**

	<u>CURRENT</u>	<u>ARREARS</u>	<u>BALANCES</u>	<u>INTEREST</u>
CHILD SUPPORT	\$375.00 PER MONTH	PER	\$6,783.92	STATE
RETROACTIVE CHILD SUPPORT		PER		
MEDICAL SUPPORT	PER	PER		CP \$2,326.49
MEDICAL REIMBURSEMENT		PER		
SPOUSAL SUPPORT	PER	PER		MEDICAID
FEES		PER		

EFFECTIVE DATE: May 1, 2003

BALANCES BY ACCOUNT TYPE:

CP INT 2,326.49  
 CS NA AR 6,783.92

TOTAL AMOUNT DUE FOR THIS COURT ORDER: \$9,110.41

<u>PAYMENT RECEIVED</u>			<u>PAY</u>	<u>ACCOUNT POSTED</u>		<u>ACCOUNT POSTED</u>			<u>ACCOUNT POSTED</u>			<u>ACCOUNT POSTED</u>		
<u>DATE</u>	<u>TOTAL</u>	<u>ORDER</u>	<u>CODE</u>	<u>AMOUNT</u>	<u>TYPE</u>	<u>AMOUNT</u>	<u>TYPE</u>	<u>AMOUNT</u>	<u>TYPE</u>	<u>AMOUNT</u>	<u>TYPE</u>	<u>AMOUNT</u>	<u>TYPE</u>	
02/17/2006	230.77	230.77	IW	144.23	CS NA CU	86.54	CS NA AR							
02/03/2006	230.77	230.77	IW	230.77	CS NA CU									
01/20/2006	230.77	230.77	IW	175.00	CS NA CU	55.77	CS NA AR							
01/13/2006	200.00	200.00	RP	200.00	CS NA CU									
12/16/2005	100.00	100.00	RP	100.00	CS NA CU									
10/18/2005	100.00	100.00	RP	100.00	CS NA CU									

AF - Application Fee  
 FF - Federal Joint Fee  
 GI - Gift  
 OS - Other State Income Withholding  
 SJ - State Joint

BC - Bankruptcy Court  
 FJ - Federal Joint Tax Offset  
 IF - IRS Full Collection  
 OT - Other State, State Offset Single  
 SS - State Single

BN - Bond  
 FM - Financial Management  
 IW - Income/Wage Withholding  
 RP - Regular Pay  
 TF - Trust Fund

CC - Court Cost Fee  
 FS - Federal Single  
 LI - Lien  
 SA - State Adjustment  
 UC - Unemployment Compensation

FA - Federal Adjustment  
 GA - Garnishments  
 MA - Military Allotment  
 SE - State Single Fee

FE - Federal Single Fee  
 GF - Genetic Fee  
 OJ - Other State, State Offset Joint  
 SF - State Joint Fee

Name of Debtor  
<#85 DL c70>  
<#101 JL c70>Case Number  
<#3 cn c11>**NOTE:** This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. §503.Name of Creditor (The person or other entity to whom the debtor owes money or property):  
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RecipAddr3 replacement  
RecipAddr4 replacement  
RecipAddr5 replacement  
RecipAddr6 replacement☐ Check box if you have never received any notices from the bankruptcy court in this case.  
☐ Check box if the address differs from the address on the envelope sent to you by the court.

123456

Telephone Number:

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Last four digits of account or other number by which creditor identifies debtor:

Check here if ☐ replaces  
this claim ☐ amends a previously filed claim, dated: \_\_\_\_\_**1. Basis for Claim**

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- Goods sold
- 
- ☐
- Services performed
- 
- ☐
- Money loaned
- 
- ☐
- Personal injury/wrongful death
- 
- ☐
- Taxes
- 
- ☐
- Other \_\_\_\_\_

- ☐
- Retiree benefits as defined in 11 U.S.C. §1114(a)
- 
- ☐
- Wages, salaries, and compensation (fill out below)
- 
- Last four digits of SS your #: \_\_\_\_\_
- 
- Unpaid compensation for services performed
- 
- from \_\_\_\_\_ to \_\_\_\_\_
- 
- (date) (date)

**2. Date debt was incurred:****3. If court judgment, date obtained:****4. Classification of Claim.** Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations.**Unsecured Nonpriority Claim** \$ \_\_\_\_\_

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**Unsecured Priority Claim**

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- Check this box if you have an unsecured priority claim, all or part of which is entitled to priority

Amount entitled to priority \$ \_\_\_\_\_

Specify the priority of the claim:

- ☐
- Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).
- 
- ☐
- Wages, salaries, or commissions (up to \$10,000),\* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).
- 
- ☐
- Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5).

**Secured Claim**

- ☐
- Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

☐ Real Estate ☐ Motor Vehicle ☐ Other \_\_\_\_\_

Value of Collateral: \$ \_\_\_\_\_

Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ \_\_\_\_\_

- ☐
- Up to \$ 2,225\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).

- ☐
- Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).

- ☐
- Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(\_\_\_\_).

\*Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

**5. Total Amount of Claim at Time Case Filed:** \$ \_\_\_\_\_  
(unsecured) (secured) (priority) (Total)

- ☐
- Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

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THIS SPACE IS FOR COURT USE ONLY

Date

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

**STATE OF ALABAMA**  
**CHILD SUPPORT ENFORCEMENT DIVISION**  
**COURT ORDER PAYMENT SUMMARY**

02/28/06

CP NAME: MICHELLE L. MOSBY-LAZENBY  
 CP ID: P0000532043

NCP NAME: RICKY A. BROWN  
 NCP ID: P0000532044

COURT ORDER NUMBER: 24CS93000006  
 DHR FILE NUMBER: 24-048638  
 CASE ID: 0168408

**SUPPORT TYPES AND TERMS**

CHILD SUPPORT  
 RETROACTIVE CHILD SUPPORT  
 MEDICAL SUPPORT  
 MEDICAL REIMBURSEMENT  
 SPOUSAL SUPPORT  
 FEES

CURRENT  
 \$156.00 PER MONTH

ARREARS  
 \$50.00 PER MONTH  
 PER  
 PER  
 PER  
 PER  
 PER

BALANCES  
 \$3,695.14

INTEREST  
 STATE  
 CP \$942.31  
 MEDICAID

EFFECTIVE DATE: July 1, 1994

BALANCES BY ACCOUNT TYPE:  
 CP INTIR 942.31  
 CS NA AR 3,695.14

TOTAL AMOUNT DUE FOR THIS COURT ORDER: \$4,637.45

<u>PAYMENT RECEIVED</u>			<u>PAY</u>			<u>ACCOUNT POSTED</u>		<u>ACCOUNT POSTED</u>			<u>ACCOUNT POSTED</u>		
<u>DATE</u>	<u>TOTAL</u>	<u>ORDER</u>	<u>CODE</u>	<u>AMOUNT</u>	<u>TYPE</u>	<u>AMOUNT</u>	<u>TYPE</u>	<u>AMOUNT</u>	<u>TYPE</u>		<u>AMOUNT</u>	<u>TYPE</u>	
02/21/2006	125.98	54.90	IW	54.90	CS NA CU								
02/21/2006	103.00	51.32	IW	1.32	CS NA CU	50.00	CS NA AR						
02/07/2006	125.98	54.90	IW	54.90	CS NA CU								
02/07/2006	103.00	44.88	IW	44.88	CS NA CU								
01/19/2006	125.98	54.90	IW	54.90	CS NA CU								
01/19/2006	103.00	51.32	IW	1.32	CS NA CU	50.00	CS NA AR						
01/04/2006	125.98	54.90	IW	54.90	CS NA CU								
01/04/2006	103.00	44.88	IW	44.88	CS NA CU								
12/21/2005	125.98	54.90	IW	54.90	CS NA CU								
12/21/2005	103.00	51.32	IW	1.32	CS NA CU	50.00	CS NA AR						
12/06/2005	125.98	54.90	IW	54.90	CS NA CU								
12/06/2005	103.00	44.88	IW	44.88	CS NA CU								
11/22/2005	125.98	54.90	IW	54.90	CS NA CU								
11/22/2005	103.00	51.32	IW	1.32	CS NA CU	50.00	CS NA AR						
11/08/2005	125.98	54.90	IW	54.90	CS NA CU								
11/08/2005	103.00	44.88	IW	44.88	CS NA CU								
10/20/2005	125.98	54.90	IW	54.90	CS NA CU								
10/20/2005	103.00	51.32	IW	1.32	CS NA CU	50.00	CS NA AR						
10/06/2005	125.98	54.90	IW	54.90	CS NA CU								
10/06/2005	103.00	44.88	IW	44.88	CS NA CU								
09/21/2005	125.98	54.90	IW	54.90	CS NA CU								

AF - Application Fee  
 FF - Federal Joint Fee  
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FE - Federal Single Fee  
 GF - Genetic Fee  
 OJ - Other State, State Offset Joint  
 SF - State Joint Fee



**STATE OF ALABAMA  
CHILD SUPPORT ENFORCEMENT DIVISION  
COURT ORDER PAYMENT SUMMARY**

February 28, 2006 Page:

2

CP NAME: MICHELLE L. MOSBY-LAZENBY  
CP ID : P0000532043

NCP NAME: RICKY A. BROWN  
NCP ID : P0000532044

COURT ORDER NUMBER: 24CS93000006  
DHR FILE NUMBER : 24-048638

PAYMENT RECEIVED			PAY	ACCOUNT POSTED		ACCOUNT POSTED		ACCOUNT POSTED		ACCOUNT POSTED	
DATE	TOTAL	ORDER	CODE	AMOUNT	TYPE	AMOUNT	TYPE	AMOUNT	TYPE	AMOUNT	TYPE
09/21/2005	103.00	51.32	IW	1.32	CS NA CU	50.00	CS NA AR				
09/07/2005	125.98	54.90	IW	54.90	CS NA CU						
09/07/2005	103.00	44.88	IW	44.88	CS NA CU						

AF - Application Fee  
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GA - Garnishments  
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